

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

FIRST APPEAL NO. 539 OF 2002

WITH FA/540/2002 WITH FA/541/2002 WITH FA/542/2002 WITH
 FA/543/2002 WITH FA/544/2002 WITH FA/545/2002 WITH FA/546/2002
 WITH FA/548/2002 WITH FA/554/2002 WITH FA/555/2002 WITH
 FA/556/2002 WITH FA/557/2002 WITH FA/558/2002

STATE OF MAHARASHTRA AND ORS

VERSUS

KESHARBAI KARBHARI THETE

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Advocate for Appellants : Mr. S. M. Jadhav, Asst. Govt. Pleader

Advocate for Respondents : Mr. S. S. Wagh and Mr. A. K. Bankar Patil

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CORAM : S. V. GANGAPURWALA, J.**DATE : 1st September, 2015****PER COURT :**

1. The present respondents filed references under section 18 of the Land Acquisition Act seeking enhanced compensation. The references are partly allowed. Aggrieved thereby, the State has filed the present appeals.

2. Learned AGP strenuously contends that the Special Land Acquisition Officer, after considering all the relevant aspects of the matters, has granted compensation amount properly. The last notification under section 4 was issued in September, 1993. The SLAO granted compensation @ 27 per sq. mtr. for the open land and @ 1400 per sq. mtr. for the built up structure. The Reference court exorbitantly enhanced the compensation amount. Compensation for open land is granted Rs.293/- per sq. mtr. The Reference court erroneously relied on the report of the private valuer of the claimants. The Engineer who had measured and submitted report before the SLAO is also examined. Those reports were discarded without assigning any reason. Re valuation is also done

by doing correct measurement. These aspects ought to have been considered by the reference Court.

3. According to the learned AGP, the private valuer of the claimants has not given details as to why he has carried out the valuation according to him. He has made valuation on the basis of DSR of 1993-94. The sale deed is of adjacent village- Dhondalgaon. Learned AGP submits that the reference court ought not have interfered with the award passed by the SLAO for grant of compensation.

4. I have considered the submissions. I have also considered the evidence on record.

5. While granting compensation amount for the open land, the reference court has considered sale deed executed in respect of plot admesureing 20x11 which was purchased for consideration of Rs.6,000/-. Considering the same, the Reference Court has awarded compensation amount @ Rs.293/- per square meter. The said sale deed is in respect of land in the same village and as such is comparable sale instance, which has been considered by the reference court, properly.

6. As far as built up structure is concerned, the reference court has considered the evidence of private valuer Prakash Baser. He had made valuation of the built up structures on the basis of DSR of the year 1993-94. Nothing has been brought on record by the State to show that the DSR rate applied were improper. Life of load bearing structure is taken as 75 years. No doubt, the DSR rate varies according to the structure. However, the respondent State has not brought on record that the DSR Rate applied by the valuer was not in tune

with the prevailing DSR rates for the structures in question. Still the reference Court has deducted 25% amount from the valuation as determined by the private valuer while granting compensation towards built up structure. In these matters, except two, enhancement is not more than Rs.55000/- .

7. The reference court has considered the evidence in its totality and has valued the open land and structure in a plausible manner and just and reasonable amount of compensation is awarded by the reference Court. In the light of that, the order of the reference court needs no interference. The appeals are dismissed. No costs.

(S. V. GANGAPURWALA, J.)

JPC